

July 31, 1998

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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**SECOND
REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT APPROVAL**

SUBJECT: Department of Development and Environmental Services File No. **L96P0022**

GREENBANK CIRCLE
Preliminary Plat Application

Location: Between NE 202nd Place and NE 205th Street, and 75th Avenue NE
and 67th Avenue NE, less than ½ mile from the King-Snohomish
County line

Applicants: Patrick and Pearl Nardone, c/o Meyring and Associates, Inc.
P.O. Box 32, Lynwood, Washington 98036

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve, subject to conditions
Department's Final:	Approve, subject to conditions (modified)
Examiner's First Report:	Approve, subject to conditions (modified)
Examiner's Second Report:	Unchanged from first report

PRELIMINARY MATTERS:

Notice of complete application: December 23, 1997

EXAMINER'S PROCEEDINGS:

Hearing Opened:	May 14, 1998
Hearing Closed:	May 14, 1998
Appeal filed:	June 1, 1998
Hearing Reopened:	July 14, 1998
Hearing Closed:	July 21, 1998

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES ADDRESSED:

- | | |
|------------------------------|-------------------|
| • Student walking conditions | • Traffic impacts |
| • Recreation areas | • Open space |
| • Density (subdivisions) | |

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information.

Owner/Developer:	Patrick and Pearl Nardone, %Meyring and Associates, Inc
Engineer:	Hieber and Associates, 17655 – 136 th Pl SE, Monroe, WA 98272
Location:	Between NE 202 nd Place and NE 205 th Street, and 75 th Avenue NE and 67 th Avenue NE, less than ½ mile from the King-Snohomish County line
STR:	1-26-4
Zoning:	R8-SO
Acreage:	2.89
Number of Lots:	20
Density:	6.8 dwelling units/acre
Typical Lot Size:	Ranges from approximately 3,500 to 5,800 square feet
Proposed Use:	Detached single family residences
Sewage Disposal:	Northshore Water & Sewer District
Water Supply:	Northshore Water & Sewer District
Fire District:	#16
School District:	Northshore
Complete Application Date:	December 23, 1997

2. **Proposal.** Patrick and Pearl Nardone (the “Applicants”) propose to subdivide 2.89 acres into 20 single family residential building lots. The proposed density would be 6.8 dwelling units per acre—within the density range permitted by the RA-SO zoning. Thus, proposed lot sizes range from approximately 3,500 to 5,800 square feet. See preliminary plat map (exhibit no. 7) or the reduced version attached to the Department of Development and Environmental Services (the “Department” or “DDES”) preliminary report to the Hearing Examiner dated May 14, 1998 (exhibit no. 2).
3. **SEPA.** An environmental impact statement will not be required. The Department published and posted its threshold determination of nonsignificance (DNS) for the proposed development on March 24, 1998. That is, the Department announced its decision, based upon a review of the environmental check-list and other pertinent environmental documents, that the proposal would not cause probable significant adverse impacts on the environment. No person, agency, or tribe appealed that determination.
4. **Department Recommendation.** The Department recommends granting preliminary plat approval to Greenbank Circle, subject to 15 conditions contained in its report to the Examiner (exhibit no. 2) on pages 6 through 8. Having heard all testimony the Department’s final recommendation is unchanged from its preliminary recommendation.
5. **Applicant’s Position.** The Applicant accepts the Department’s recommendation.
6. **Concerns.** In its review of the application, the Department had some concerns regarding appropriate implementation of P-suffix conditions; recreation/open space facilities; and, school walking conditions. The P-suffix condition concerns, which related to access standards contained in the community plan, were resolved by the Council’s repeal of Northshore Community Plan NSP-P9. Recreation and open space concerns are addressed on page 6 of the Department’s report as well as in the drainage and recreation provisions of the project plans.

A neighboring property owner expresses concern regarding traffic generation and circulation. In order to reduce traffic load on 75th Avenue NE and the 75th Avenue NE/205th intersection, she recommends that a through-street connection replace the proposed cul-de-sac within Greenbank Circle. The Department of Public Works and DDES both usually support through-street connections. However, in this case, the Department saw no general public benefit. Only two through-street connection opportunities exist. The first, to the north, would result in a “loop street” with each end accessing 75th Avenue NE. The other available opportunity, an eastward extension, would connect with a substandard street. Either way, no significant public benefit. Further, the Department suggests, King County Traffic and Transportation Standards are written in such a manner as so suggest that the impact from a 20 lot plat will be negligible or minimal—and therefore appropriately ignored.

7. **Department Report Adopted.** Except as noted above, the facts and analysis contained in the Land Use Services Division Preliminary Report dated May 14, 1998 are correct and are incorporated here by reference. A copy of the Land Use Services Division report will be attached to those copies of the examiner's report which are submitted to the King County Council.

8. Reopened Hearing.

Following an appeal from the examiner's first decision, this office discovered that no ordinance regarding the preliminary plat application had been introduced. Once an ordinance had been introduced (at the request of this office), a *hearing* on the ordinance became necessary (required by County Charter). Thus, the reopened Greenbank Circle hearing is the hearing on proposed ordinance no. 98-400. The examiner incorporated the entire original record into the reopened hearing record. In the reopened hearing, the examiner prohibited any duplicative or redundant testimony, allowing only new issues and/or new evidence. Thus limited, the following new matters were presented:

A. Transportation policy.

The appellant argues that King County Comprehensive Plan Transportation policy T-107 has been ignored in this review. T-107 encourages multi-jurisdictional or extra-jurisdictional planning review. The Department counters that T-107 applies to transportation planning, not to individual project review. In any event, the Department says that both the City of Bothell and Snohomish County were indeed notified regarding Greenbank Circle. The hearing record agrees; see exhibit no. 18, "DDES Planner Worksheet Notice of Application and SEPA/LUSD Document Transmittal Form."

B. Turnaround adequacy.

The appellant questions whether the proposed turnaround at the terminus of the cul-de-sac street provides sufficient diameter for fire trucks to turn around. Turnaround dimensions are established by King County Road Standards (KCRS). The KCRS are developed by the King County Department of Transportation, but incorporate also the King County fire engineering standards. In addition, the fire engineer (fire marshal) standards are applied to every project plan. The turnaround in the case of Greenbank Circle is no different than other turnarounds recently approved in King County, with a 100 foot wide diameter.

The appellant also expressed concerns about the adequacy of the student walking conditions and the adequacy of the 204th Street and 76th Avenue NE. However, these subject matters were deemed by the examiner to have been previously considered in the first hearing. No new information was offered to the hearing record.

CONCLUSIONS:

1. The reopened hearing has not presented any new information or argument which would warrant modification of the examiner's May 18, 1998 report and decision. Whether or not Policy T-107 was properly followed in this case is moot because, in fact, Bothell and Snohomish County were notified during the pre-hearing review process. There is no evidence to suggest that fire protection service access is deficient in any manner. Other issues raised in the reopened hearing are adequately addressed by the conclusions which follow below.

2. Based upon the whole record, and according substantial weight to the determination of environmental significance made by the Land Use Services Division, it is concluded that approval of this subdivision as recommended below would not constitute a major action significantly affecting the quality of the environment. All evidence of environmental impact relating to the proposed action and reasonable alternatives to the proposed action have been included in the review and consideration of this action.
3. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the Northshore Community Plan, Comprehensive Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
4. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for drainage ways, streets, other public ways, water supply, and sanitary wastes; and it will serve the public use and interest.
5. The conditions recommended in the Land Use Services Division's Preliminary Report as amended below are in the public interest and are reasonable requirements.

DECISION:

APPROVE the proposed preliminary plat of Greenbank Circle, DDES file no. L96P0022, as represented in the Applicant's preliminary plat drawing received by DDES on April 23, 1998 (entered as exhibit no. 7 in this hearing record); subject to the 15 conditions contained on pages 6 through 8 of the Department's preliminary report to the Hearing Examiner dated May 14, 1998 (exhibit no. 2).

ORDERED this 31st day of July, 1998.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 31st day of July, 1998, to the parties and interested persons shown on the attached list.

NOTICE OF RIGHT TO APPEAL

The pending appeal filed by Carol Davis on her own behalf and on behalf of several neighboring residents, remains intact and valid. An appeal hearing before the Metropolitan King County Council will be scheduled as soon the appeal period described below has expired. Any other agrieved party, not included in the Carol Davis appeal may appeal this examiner's decision by following the instructions which follow here.

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before **August 14, 1998**. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before **August 21, 1998**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE MAY 14, 1998, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L96P0022 – GREENBANK CIRCLE:

R. S. Titus was the Hearing Examiner in this matter. Max Meyring, Carol Davis, Peter Dye/DDES and Keri Akers/DDES participated in the hearing.

The following exhibits were offered and entered into the hearing record:

- Exhibit No. 1 Department of Development and Environmental Services File No. L96P0022
- Exhibit No. 2 Department of Development and Environmental Services preliminary report, for the May 14, 1998 public hearing of L96P0022 (report dated April 30, 1998)
- Exhibit No. 3 Application, dated September 11, 1996
- Exhibit No. 4 Environmental check-list (L96P0022), dated September 11, 1996
- Exhibit No. 5 Declaration of non-significance (L96P0022), dated March 24, 1998
- Exhibit No. 6 Affidavit of posting (L96P0022), indicating November 4, 1996 as date of posting, and November 3, 1996 as the date the affidavit was received by the Department of Development and Environmental Services.
- Exhibit No. 7 Plat map of Greenbank Circle, dated April 23, 1998
- Exhibit No. 8 Kroll land use map, page 401W
- Exhibit No. 9 Assessors map: NW 1-26-4, KC 3418
- Exhibit No. 10 Level one drainage analysis for Greenbank Circle, dated June 25, 1997
- Exhibit No. 11 Significant tree retention plan, plat of Greenbank Circle, dated December 23, 1997
- Exhibit No. 12 Map depiction of school walking route to Shelton View Elementary School from proposed plat of Greenbank Circle
- Exhibit No. 13 Preliminary plat map for Aspen Grove (L97P0048), dated November 14, 1997 (plat currently under review)
- Exhibit No. 14 Alternative condition no. 11 for DDES staff report

MINUTES OF THE JULY 21, 1998 REOPENED PUBLIC HEARING ON DEPARTMENT OF
DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L96P0022 -- GREENBANK
CIRCLE:

R.S. Titus was the Hearing Examiner in this matter. Participating in the hearing were Keri Akers, Greg Borba, Patrick Nardone, Max Meyring, Larry Swartz, and Carol Davis.

The following exhibits were offered and entered into the record:

Exhibit No. 15 Letter to Examiner received July 16, 1998, from Jim Edwards

Exhibit No. 16 Petition submitted by Carol Davis requesting NE 203rd Place be made a through street

Exhibit No. 17 King County Comprehensive Plan Policy T-107

Exhibit No. 18 DDES Planner Worksheet Notice of Application and SEPA/LUSD Document
Transmittal Form

RST:cp

Attachment

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